

8503540149

FILED

DEC 20 1985 12:15

PM

AGREEMENT AND PLAN OF MERGER  
ROBERT J. SMITH

20th THIS AGREEMENT AND PLAN OF MERGER, made as of the day of December, 1985, by and between CMC HOLDING COMPANY, INC., a Delaware corporation ("Holding"), and CRUCIBLE MATERIALS CORPORATION, a Delaware corporation ("Crucible") (Holding and Crucible being hereinafter sometimes called the "Constituent Corporations"),

## WITNESSETH THAT:

WHEREAS, Crucible, as of the date hereof, has authority to issue up to 15,000,000 shares of Common Stock having a par value of \$10.00 per share, and up to 1,238,000 shares of Preferred Stock having a par value of \$100.00 per share, including 200,000 shares of 13.0% Cumulative Convertible A Preferred Stock (hereinafter called "A Preferred Stock"), 100,000 shares of 16.5% Cumulative Convertible B Preferred Stock (hereinafter called "B Preferred Stock"), 63,000 shares of 16.5% Cumulative Convertible C Preferred Stock (hereinafter called "C Preferred Stock"), 700,000 shares of 16.5% Cumulative D Preferred Stock (hereinafter called "D Preferred Stock") and 175,000 shares of 13.0% Cumulative E Preferred Stock (hereinafter called "E Preferred Stock"); and

WHEREAS, the issued and outstanding capital stock of Crucible consists of 3,500,000 shares of Common Stock, of which 3,033,383 shares are owned by Colt Industries Operating Corp, a Delaware corporation ("Operating"), and 466,617 shares are owned

00002

by Holding; 200,000 shares of A Preferred Stock, which are owned by Operating; 100,000 shares of B Preferred Stock, of which 6,677 shares are owned by Operating and 93,323 shares are owned by Holding; and 63,000 shares of C Preferred Stock, which are owned by Holding; and

WHEREAS, Holding, as of the date hereof, has authority to issue up to 500,000 shares of Common Stock having a par value of \$10.00 per share ("Holding Common Stock"), and up to 243,000 shares of Preferred Stock having a par value of \$100.00 per share, including 150,000 shares of 16.5% Cumulative Convertible B Preferred Stock (hereinafter called "Holding B Preferred Stock"), 63,000 shares of 16.5% Cumulative Convertible C Preferred Stock (hereinafter called "Holding C Preferred Stock"), and 30,000 shares of 16.5% Cumulative D Preferred Stock; and

WHEREAS, the issued and outstanding capital stock of Holding consists of 466,617 shares of Holding Common Stock and 93,323 shares of Holding B Preferred Stock, which are owned by The Crucible Fund for Eligible Salaried Employees of all Divisions of Crucible Materials Corporation (the "Crucible Fund"); and 63,000 shares of Holding C Preferred Stock, which are owned by Technology Metals, Inc., a Delaware corporation ("Technology Metals"); and

WHEREAS, Holding and Crucible desire to merge under and pursuant to Section 251 of the General Corporation Law of Delaware into a single corporation existing under the laws of the State of Delaware;

NOW, THEREFORE, in consideration of the covenants herein contained and intending to be legally bound, the parties hereto hereby agree as follows:

ARTICLE I

THE MERGER

1.1 General. Subject to the terms and conditions set forth herein, on the Effective Date (hereinafter defined), Holding shall merge with and into Crucible (the "Merger") with Crucible as the surviving corporation (hereinafter sometimes called the "Surviving Corporation"), the name of which shall continue to be Crucible Materials Corporation.

1.2 Board of Director Approval. The Board of Directors of each of Holding and Crucible by resolution have approved and adopted this Agreement and Plan of Merger pursuant to and in accordance with Sections 251(b) and 141 of the General Corporation Law of Delaware.

1.3 Stockholder Approval. The Stockholders of the Constituent Corporations by written consent have approved and adopted this Agreement and Plan of Merger pursuant to and in accordance with Sections 251(c) and 228 of the General Corporation Law of Delaware.

1.4 Effective Date. The Merger shall become effective on the date on which this Agreement and Plan of Merger is filed with the Department of State of the State of Delaware pursuant to and in accordance with Sections 251(c) and 103(d) of the General Corporation Law of Delaware.

1.5 Effect of the Merger. Upon the Merger becoming effective, the separate existence of Holding shall cease. The corporate existence of Crucible shall continue unimpaired and as the Surviving Corporation it shall possess all the rights, privileges, powers and franchises as well of a public as of a private nature, and be subject to all the restrictions, disabilities and duties of each of the Constituent Corporations; and all and singular, the rights, privileges, powers and franchises of each of the Constituent Corporations, and all property, real, personal and mixed, and all debts due to either of said Constituent Corporations on whatever account, as well for stock subscriptions as all other things in action or belonging to each of the Constituent Corporations shall be vested in the Surviving Corporation; and all property, rights, privileges, powers and franchises, and all and every other interest shall be thereafter as effectually the property of the Surviving Corporation as they were of the Constituent Corporations, and the title to any real estate vested by deed or otherwise, under the laws of Delaware, in either of the Constituent Corporations, shall not revert or be in any way impaired; but all rights of creditors and all liens upon any property of either the Constituent Corporations shall be preserved unimpaired, and all debts, liabilities and duties of the Constituent Corporations shall thenceforth attach to the Surviving Corporation, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it, all

as provided in Section 259(a) of the General Corporation Law of Delaware. At any time or from time to time, after the Effective Date, as and when requested by the Surviving Corporation or by its successors or assigns, the last acting officers of Holding, or the corresponding officers of the Surviving Corporation, shall, in the name of Holding, execute and deliver or cause to be executed and delivered all such proper deeds, assignments and other instruments and take or cause to be taken all such further or other action as the Surviving Corporation may deem necessary or desirable in order to vest, perfect or confirm in the Surviving Corporation title to and possession of any or all of Holding's property, rights, privileges, powers, franchises, immunities and interests and otherwise to effectuate the terms of this Agreement and Plan of Merger.

1.6 Certificate of Incorporation. The Certificate of Incorporation of Crucible as in effect immediately prior to the Effective Date shall from and after the Effective Date be and remain the Certificate of Incorporation of the Surviving Corporation until thereafter amended or restated in accordance with the General Corporation Law of Delaware.

1.7 By-laws. The By-laws of Holding as in effect immediately prior to the Effective Date shall from and after the Effective Date become and remain the By-laws of the Surviving Corporation until thereafter amended or restated as provided therein.

1.8 Officers and Directors. The officers and directors of Crucible in office on the Effective Date shall remain in the same capacities as officers and directors of the Surviving Corporation until their successors have been duly elected and qualified.

## ARTICLE II

### CONVERSION OF SHARES

2.1 General. The manner of converting the issued and outstanding shares of the capital stock of each of the Constituent Corporations shall be as provided in this Article.

2.2 Conversion. On the Effective Date the following shall occur:

(a) Each share of Holding Common Stock issued and outstanding shall, by reason of the Merger, be converted into and become one share of the Common Stock of Crucible.

(b) Each share of Holding B Preferred Stock issued and outstanding shall, by reason of the Merger, be converted into and become one share of the B Preferred Stock of Crucible.

(c) Each share of Holding C Preferred Stock issued and outstanding shall, by reason of the Merger, be converted into and become one share of the C Preferred Stock of Crucible.

(d) Operating will retain all of its shares of the A Preferred Stock of Crucible and any shares of the B Preferred Stock of Crucible and the Common Stock of

Crucible held by it, and such shares shall continue to be outstanding immediately after the Effective Date.

2.3 Surrender and Exchange of Stock Certificates. On the Effective Date, each of Technology Metals and the trustee for the Crucible Fund shall surrender to the Surviving Corporation any and all certificates representing shares of the capital stock of Holding, duly endorsed in blank, and shall receive in exchange therefor appropriate certificates representing the shares of the capital stock of Crucible which they are to receive under this Article.

### ARTICLE III

#### AMENDMENT AND TERMINATION

Notwithstanding anything herein or elsewhere to the contrary, this Agreement and Plan of Merger may be amended, modified or supplemented in writing, or may be terminated in writing and the Merger provided for herein abandoned, at any time prior to the Effective Date, by mutual consent of the Boards of Directors of Holding and Crucible.

IN WITNESS WHEREOF, the duly authorized officers of  
each of the Constituent Corporations have executed this Agreement  
and Plan of Merger as of the day and year first above written.

Attest:

CMC HOLDING COMPANY, INC.

By Vincent H. Callahan  
Vincent H. Callahan  
President and Chief  
Executive Officer

 Warren T. Bickerton  
Warren T. Bickerton  
Secretary

Attest:

CRUCIBLE MATERIALS CORPORATION

By Vincent H. Callahan  
Vincent H. Callahan  
Chairman of the Board and  
Chief Executive Officer

Warren T. Bickerton  
Warren T. Bickerton  
Secretary

[Corporate Seal]

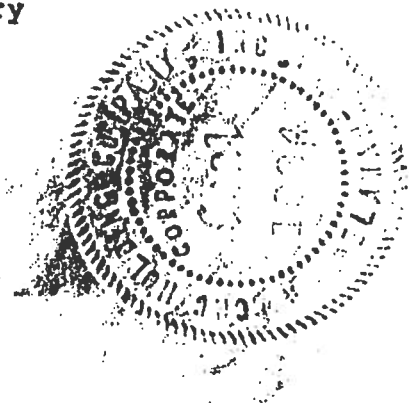


**CERTIFICATE**

I, Louise Richter Laurent, Assistant Secretary of CMC Holding Company, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certify as such Assistant Secretary, that the Agreement and Plan of Merger to which this Certificate is attached, after having been first duly executed on behalf of the Corporation and having been executed on behalf of Crucible Materials Corporation, a corporation organized and existing under the laws of the State of Delaware, was duly adopted pursuant to Sections 251 and 228 of Title 8 of the Delaware Code, as amended, by the unanimous written consent of the stockholders holding all shares of the capital stock of the Corporation issued and outstanding.

WITNESS my hand on this 20th day of December, 1985.

*Louise Richter Laurent*  
\_\_\_\_\_  
Louise Richter Laurent  
Assistant Secretary



CCU10

**CERTIFICATE**

I, Warren T. Bickerton, Secretary of Crucible Materials Corporation, a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certify as such Secretary, that the Agreement and Plan of Merger to which this Certificate is attached, after having been first duly executed on behalf of the Corporation and having been executed on behalf of CMC Holding Company, Inc., a corporation organized and existing under the laws of the State of Delaware, was duly adopted pursuant to Sections 251 and 228 of Title 8 of the Delaware Code, as amended, by the unanimous written consent of the stockholders holding all shares of the capital stock of the Corporation issued and outstanding.

WITNESS my hand on this 20th day of December, 1985.

  
Warren T. Bickerton  
Secretary